

ESTTA Tracking number: **ESTTA422564**Filing date: **07/29/2011**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	FABI S.P.A.		
Entity	Joint Stock Company	Citizenship	ITALY
Address	VIA BORE CHIENTI MONTE SAN GIUSTO (MC), 62015 ITALY		

Attorney information	CHARLES C.H. WU WU & CHEUNG, LLP 98 DISCOVERY IRVINE, CA 92618 UNITED STATES CCHWU@WCLAWYERS.COM Phone:949-251-0111 X-118
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**Registration Subject to Cancellation**

Registration No	3422644	Registration date	05/06/2008
Registrant	de la barracuda 7600 Melrose ave. #b Los angeles, CA 90046 UNITED STATES		

**Goods/Services Subject to Cancellation**


Class 025. First Use: 2007/04/01 First Use In Commerce: 2007/04/01  
Cancelled goods and services in the class: Flip flops; Footwear for men and women

**Grounds for Cancellation**

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Application No.	79086366	Application Date	06/23/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BARRACUDA CALZOLAI DAL 1896		

Design Mark	 The logo features the word "Barracuda" in a large, bold, italicized sans-serif font. Below it, in a smaller, italicized sans-serif font, is the text "Calzalai dal 1896". The entire text is enclosed within a thick black oval border.
Description of Mark	The mark consists in the wording "BARRACUDA CALZOLAI DAL 1896" placed inside an oval.
Goods/Services	Class 025. First use: Shoes

Attachments	79086366#TMSN.jpeg ( 1 page )( bytes ) Petition to Cancel (C).pdf ( 10 pages )(49040 bytes ) Exhibits A thru F.pdf ( 30 pages )(1893406 bytes ) Exhibits G thru L.pdf ( 27 pages )(1692510 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/charles c.h. wu/
Name	Charles C.H. Wu, Attorney of record
Date	07/29/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Registration:

Registration No. : 3,422,644  
Mark : de la barracuda  
Registrant : De La Barracuda Inc.  
Filed : Sept. 6, 2007  
Registered : May 6, 2008

FABI S.P.A.,

Petitioner,

v.

DE LA BARRACUDA INC.,

Registrant.

Cancellation No.

**PETITION FOR CANCELLATION**

Petitioner, Fabi S.P.A. is an Italian joint stock company with principal offices at Via Bore Chienti, 62015 Monte San Giusto (MC), Italy ("Petitioner"), believing it is and will continue to be damaged by maintenance of Registration No. 3,422,644 on the Principal Register, hereby petitions to cancel the same.

From the USPTO's record, the name and address of the current owner of U.S. Registration No. 3,422,644 (for the word mark "de la barracuda") (hereinafter, the "Accused Mark") is De La Barracuda Inc., a California corporation, with a principal address at 7769 Melrose Ave., Los Angeles, California 90046 ("Registrant").

The Petitioner believes that it has been and will continue to be damaged by the above-identified registration, and hereby petitions to cancel the Accused Mark to the extent the Accused Mark covers shoes or footwear in International Class 025.

Petitioner's grounds for cancellation include fraud and abandonment for non-use, which are addressed in detail in the sections below.

**PETITIONER IS DAMAGED BY REGISTRANT'S ACCUSED MARK**

1. Petitioner submitted U.S. Trademark Application No. 79/086,366 filed June 23, 2010 for the design mark "BARRACUDA CALZOLAI DAL 1896" (hereinafter, the "BARRACUDA MARK") displayed below. A true and correct copy of Petitioner's Application for the BARRACUDA MARK is attached hereto and incorporated herein as **Exhibit "A."**



2. Petitioner's application for the BARRACUDA MARK claims the priority of international registration No. 1048431. A true and

correct copy of Petitioner's international registration is attached hereto and incorporated herein as **Exhibit "B."**

3. Petitioner's international registration for the BARRACUDA MARK is based on Italian Registration No. 1239198, the application of which was filed on December 14, 2007 and registered on January 13, 2010. Said Italian registration is a renewal of an original application filed on January 12, 1998 and registered on August 4, 1999 as No. 786849. True and correct copies of Petitioner's Italian Registration Nos. 1239198 and 786849 are collectively attached hereto as **Exhibit "C."**

4. Petitioner's application for the BARRACUDA MARK is associated with "shoes" under International Class 025.

5. Petitioner, before any alleged use or registration by Registrant of the ACCUSED MARK, has continuously used its BARRACUDA MARK (see **Exhibit "A"**) in connection with shoes and/or footwear, since at least 1998 (See **Exhibit "C"**).

6. Registrant filed USPTO Application No. 77/273,196 for the ACCUSED MARK on September 6, 2007 for "de la barracuda" in International Class 025 for the following goods:

baseball caps; caps; cargo pants; **flip flops; footwear for men and women;** golf caps; hats; pants; polo shirts; short-sleeved or long-sleeved t-shirts; sport shirts; sweat pants; sweat shirts; t-shirts; woolly hats  
(Emphasis added)

7. The ACCUSED MARK was thereafter registered with the USPTO on May 6, 2008 as Registration No. 3,422,644, as displayed immediately below. A true and correct copy of the registration certificate for the ACCUSED MARK is attached hereto and incorporated herein as **Exhibit "D."**

## de la barracuda

8. Despite the distinct visible differences between these marks on a whole, a final refusal has been issued on Petitioner's application for the BARRACUDA MARK on the ground that the proposed mark so resembles Registrant's ACCUSED MARK as to be likely, when used on or in association with the identified goods, to cause confusion, or to cause mistake, or to deceive.

9. Petitioner is thus damaged by Registrant's ACCUSED MARK, since Registrant has obtained a *prima facie* right to the ownership and exclusive use of the ACCUSED MARK in commerce for the specific goods recited therewith, as a result of the registration.

### **REGISTRANT'S FRAUD ON USPTO**

10. In connection with Registrant's initial in-use-commerce application made for the ACCUSED MARK, Serial No. 77/273,196 filed on September 6, 2007, the Registrant made false statements and representations to the USPTO. A true and correct copy of

Registrant's application for the ACCUSED MARK is attached hereto and incorporated herein as **Exhibit "E."**

11. In the application, Registrant listed 15 separate goods individually and as a result was required to state the date of first use and attach specimen(s) evidencing use for each of the 15 items listed.

12. Specifically, Registrant owner and signatory, Mr. Gavin Bryce, claimed in the September 6, 2007 dated Declaration that the first use in commerce of the mark in connection to "flip flops" and "footwear for men and women" was April 1, 2007. (**Exhibit "E"** at pp. 2 and 3)

13. In response to the specimen requirement, Registrant attached a photo of its ACCUSED MARK displayed on a t-shirt. A true and correct copy of the specimen submitted by Registrant is attached hereto and incorporated herein as **Exhibit "F."** Registrant submitted the same specimen for each of the 15 items listed on the application, including "flip flops" and "footwear for men and women."

14. Thus, Registrant's specimen submission under Title 15 U.S.C. § 1127, did not satisfy the requirements for evidence of use in a "use in commerce" application.

15. Further, Registrant had not and does not market, manufacture or sell shoes or other footwear under its ACCUSED MARK.

16. Registrant was incorporated in the state of California on or about June 22, 2007, and operates one store located in the city of Los Angeles and an online store, <http://barracudashop.3dcartstores.com/>.

17. The online store features Registrant's product line.

18. It is evident that Registrant's product line does not include shoes or any other footwear as none are listed in the product and category index. True and correct copies of the Product Index and Category Index web pages from Registrant's online store are attached hereto and incorporated herein as **Exhibit "G."**

19. A further search on the website for "flip flops," "shoes," and "footwear," produced zero results. A true and correct copy of the search results from Registrant's online store is attached hereto and incorporated herein as **Exhibit "H."**)

20. The only reference to shoes found in connection to Registrant on the Internet, is a page in its blog which appears to evidence retail sales of shoes bearing the brand "3:33." A true and correct copy of Registrant's blog referencing 3:33 footwear is attached hereto and incorporated herein as **Exhibit "I."**

21. The "3:33" brand is owned by 3:33, Inc., a California corporation, owner of U.S. trademark Registration No. 3,493,411, which is not affiliated with Registrant. A true and correct copy of the "3:33" registration page from the USPTO is attached hereto and incorporated herein as **Exhibit "J."**



22. Further, Registrant by its own admission to Petitioner's distributor, has never manufactured or sold its own brand of shoes. See Declarations of Lucy Liou and Philip Lin attached and incorporated hereto as **Exhibit "K,"** at ¶6, and **Exhibit "L,"** at ¶6, respectively.

23. By its submission of a photograph of a t-shirt as the specimen (**Exhibit "F"**) showing use of the ACCUSED MARK in connection to flip flops and footwear for men and women, and by its declaration on its application that the mark was allegedly in use in commerce in connection with flip flops and footwear for men and women from as early as April 21, 2007, Registrant knowingly made false and misleading statements to the USPTO in connection with registering the ACCUSED MARK.

24. Said false statements and representations were made by Registrant for the purpose of inducing the USPTO to issue a trademark to Registrant.

25. The USPTO relied on these false statements and representations and granted the registration of the ACCUSED MARK.

26. If said false statements and representations had not been made, Registrant's in-use application as to "flip flops" and "footwear for men and women" would have been void *ab initio* under 15 U.S.C. § 1051(b) (Section 1(b) of the Trademark Act), and the USPTO would not have issued a trademark to Registrant with respect to such goods not in use.

27. Therefore, U.S. Registration No. 3,422,644 for the ACCUSED MARK "de la barracuda" should be cancelled as to the goods not in use, namely "flip flops" and "footwear for men and women," because it was fraudulently obtained.

**REGISTRANT'S MARK SHOULD BE DEEMED ABANDONED AS TO  
THE NON-USED GOODS RECITED IN THE APPLICATION**

28. As shown above, Registrant has not to date used its ACCUSED MARK in commerce in connection with all of the goods listed in the application, particularly with respect to "flip flops" and "footwear for men and women."

29. Registrant's nonuse of the ACCUSED MARK in connection to "flip flops" and "footwear for men and women" from the date of the filing of its application to present should be deemed an abandonment of the ACCUSED MARK as to the specified goods not in use.

30. According to 15 U.S.C. §1127, a mark shall be deemed to be "abandoned" if the following occurs:

(1) When its use has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for 3 consecutive years shall be prima facie evidence of abandonment. "Use" of a mark means the bona fide use of such mark made in the ordinary course of trade, and not made merely to reserve a right in a mark. (emphasis added)

31. Registrant has not used the mark in connection to shoes (or any other footwear, for that matter) for more than 4 consecutive years, based on Registrant's alleged first use date of April 1, 2007.

32. Registrant's nonuse demonstrates malicious intent to reserve a right in a mark.

33. Because the ACCUSED MARK "de la barracuda" has not been used in commerce for all of the goods cited in Registration No. 3,422,644, it should be cancelled as to the goods not in use, specifically "flip flops" and "footwear for men and women."

WHEREFORE, Petitioner respectfully requests that Registration No. 3,422,644 be cancelled for nonuse in relation to flip flops and footwear for men and women in International Class 025.

Respectfully submitted,

WU & CHEUNG, LLP

Dated: July 28, 2011

By: /s/Charles C.H. Wu  
Charles C.H. Wu  
Reg. No. 39,081  
Vikram M. Reddy  
Reg. No. 53,508  
Attorneys for Petitioner  
98 Discovery  
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Email: [vreddy@wclawyers.com](mailto:vreddy@wclawyers.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on July 28, 2011 a copy of the foregoing PETITION TO CANCEL was served via first-class U.S. mail to the following:

De La Barracuda, Inc.  
7769 Melrose Ave.  
Los Angeles, CA 90046

/Charles C.H. Wu/  
Charles Wu

# EXHIBIT “A”

# REQUEST FOR EXTENSION OF PROTECTION

SERIAL NUMBER: 79086366

FILING DATE: 06/23/2010

The table below presents the data as entered.

Input Field	Entered
<b>MARK SECTION</b>	
IMAGE	\\TICRS\EXPORT11\IMAGEOUT11\790\863\79086366\xml1\APP0002.JPG
COLLECTIVE, CERTIFICATE OR GUARANTEE MARK	NO
MARK IN STANDARD CHARACTERS	NO
MARK IN COLOR	NO
THREE DIMENSIONAL MARK	NO
SOUND MARK	NO
VERBAL ELEMENTS OF THE MARK	BARRACUDA CALZOLAI DAL 1896.
MARK DESCRIPTION	The mark consists in the wording "BARRACUDA CALZOLAI DAL 1896" placed inside an oval.
MARK TRANSLATION DETAILS	BARRACUDA SHOEMAKERS SINCE 1896.
TM IMAGE: COLOR	Grey Scale
IMAGE FILE NAME	\\TICRS\EXPORT11\IMAGEOUT11\790\863\79086366\xml1\APP0002.JPG
TYPE (IMAGE TYPE)	JPG
TEXTUAL ELEMENTS OF MARK	Barracuda Calzolari dal 1896
<b>HOLDER DETAILS</b>	
CLIENT IDENTIFIER	573829
NOTIFICATION LANGUAGE	ENGLISH
NAME	FABI S.P.A.
ADDRESS	Via Bore Chienti snc I-62015 MONTE SAN GIUSTO (MC)
COUNTRY	Italy
ENTITLEMENT NATIONALITY OF APPLICANT/TRANSFEREE/HOLDER	Italy
LEGAL NATURE	Joint Stock Company
LEGAL NATURE: PLACE INCORPORATED	Italy
CORRESPONDENCE INDICATOR	YES
<b>BASIC GOODS AND SERVICES</b>	
VERSION OF NICE CLASSIFICATION USED	9
NICE CLASSIFICATION	25
GOODS AND SERVICES	Shoes.
<b>BASE REGISTRATION DETAILS</b>	
BASE REGISTRATION NUMBER	1239198

BASE REGISTRATION DATE	01/13/2010
<b>REPRESENTATIVE DETAILS</b>	
CLIENT IDENTIFIER	737555
NAME	Dr. Benedetta DOLCI
	c/o STUDIO ASS.TO INPAT&LAW
	DI CONSULENZA E LEGALE
	AVV. CERRETA DR. DOLCI
ADDRESS	Via dei Mandorli, 1/A
	I-60018 MONTEMARCIANO (Ancona)
COUNTRY	Italy
<b>INTENT TO USE GROUP</b>	
CONTRACTING PARTY CODE	United States of America
<b>DESIGNATIONS</b>	
DESIGNATIONS UNDER THE PROTOCOL	United States of America
<b>INTERNATIONAL REGISTRATION DETAILS</b>	
INTERNATIONAL REGISTRATION NUMBER	1048431
INTERNATIONAL REGISTRATION DATE OF MARK	06/23/2010
INTERNATIONAL REGISTRATION EXPIRY DATE	06/23/2020
EFFECTIVE DATE OF MODIFICATION	06/23/2010
NOTIFICATION DATE	09/23/2010
DATE OF RECORDAL IN INTERNATIONAL REGISTER	09/04/2010
IB DOCUMENT ID	558871001
OFFICE OF ORIGIN CODE	Italy
OFFICE REFERENCE	79086366
TRANSACTION TYPE VALUES	Initial Designation
ORIGINAL LANGUAGE	ENGLISH
INSTRUMENT UNDER WHICH CONTRACTING PARTY IS DESIGNATED	Protocol
HOLDER REFERENCE	F501.3WO.4.03
DURATION OF MARK (YEARS)	10
VIENNA CLASSIFICATION VERSION USED	6
VIENNA CLASS	2601

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The logo consists of a thick black oval border. Inside the oval, the word "Barracuda" is written in a large, bold, italicized sans-serif font. Below the brand name, the text "Calzolari dal 1896" is written in a smaller, italicized sans-serif font.

***Barracuda***

*Calzolari dal 1896*



# EXHIBIT “B”

**1048431**

- 151 **Date of the registration**  
23.06.2010
- 180 **Expected expiration date of the registration/renewal**  
23.06.2020
- 270 **Language of the application**  
English

**Current Status**

- 732 **Name and address of the holder of the registration**  
FABI S.P.A. Via Bore Chienti snc I-62015 MONTE SAN GIUSTO (MC) Italy
- 811 **Contracting State of which the holder is a national**  
IT (Italy)
- 740 **Name and address of the representative**  
Dr. DOLCI Benedetta c/o Studio Ass.to INPAT&LAW di consulenza e legale Avv. Cerreta  
Caterina Dr. Dolci Benedetta Via dei Gabbiani 50 Scala E Interno 6 I-60018 MARINA DI  
MONTEMARCIANO (AN) Italy
- 540 **Mark**



- 531 **International Classification of the Figurative Elements of Marks (Vienna Classification) - VCL(6)**  
26.01.18
- 571 **Description of the mark**  
The mark consists in the wording "BARRACUDA CALZOLAI DAL 1896" placed inside an oval.  
Cette marque se compose de l'intitulé "BARRACUDA CALZOLAI DAL 1896" placé à l'intérieur d'un ovale.  
La marca consiste en la inscripción "BARRACUDA CALZOLAI DAL 1896" dentro de un óvalo.
- 566 **Translation of the mark or of words contained in the mark**
- 511 **International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification) - NCL(9)**  
25 Shoes.
- 822 **Basic registration**  
IT (Italy), 13.01.2010, 1239198
- 832 **Designation(s) under the Madrid Protocol**  
DK (Denmark), GB (United Kingdom), GR (Greece), JP (Japan), TM (Turkmenistan), TR (Turkey), US (United States of America), UZ (Uzbekistan)
- 834 **Designation(s) under the Madrid Protocol by virtue of Article 9sexies**  
AT (Austria), BA (Bosnia and Herzegovina), BX (Benelux), CN (China), CZ (Czech Republic), DE (Germany), ES (Spain), FR (France), HR (Croatia), HU (Hungary), MC (Monaco), ME (Montenegro), PL (Poland), PT (Portugal), RO (Romania), SI (Slovenia), UA (Ukraine), VN (Viet Nam)
- 527 **Indications regarding use requirements**

GB (United Kingdom), US (United States of America)

## **Registration**

450 **Publication number and date**

2010/36 Gaz, 30.09.2010

832 **Designation(s) under the Madrid Protocol**

DK (Denmark), GB (United Kingdom), GR (Greece), JP (Japan), TM (Turkmenistan), TR (Turkey), US (United States of America), UZ (Uzbekistan)

834 **Designation(s) under the Madrid Protocol by virtue of Article 9sexies**

AT (Austria), BA (Bosnia and Herzegovina), BX (Benelux), CN (China), CZ (Czech Republic), DE (Germany), ES (Spain), FR (France), HR (Croatia), HU (Hungary), MC (Monaco), ME (Montenegro), PL (Poland), PT (Portugal), RO (Romania), SI (Slovenia), UA (Ukraine), VN (Viet Nam)

527 **Indications regarding use requirements**

GB (United Kingdom), US (United States of America)

580 **Date of recording (date of notification from which the time limit to notify the refusal starts)**

23.09.2010

861 **Total provisional refusal of protection**

US (United States of America)

450 **Publication number and date**

2010/39 Gaz, 21.10.2010

## **Statement of grant of protection made under Rule 18ter(1)**

BX (Benelux)

450 **Publication number and date**

2010/50 Gaz, 06.01.2011

861 **Total provisional refusal of protection**

JP (Japan)

450 **Publication number and date**

2010/50 Gaz, 06.01.2011

861 **Total provisional refusal of protection**

TR (Turkey)

450 **Publication number and date**

2010/52 Gaz, 20.01.2011

## **Statement of grant of protection made under Rule 18ter(1)**

RO (Romania)

450 **Publication number and date**

2011/4 Gaz, 17.02.2011

## **Statement of grant of protection made under Rule 18ter(1)**

GB (United Kingdom)

450 **Publication number and date**

2011/8 Gaz, 17.03.2011

861 **Total provisional refusal of protection**

CZ (Czech Republic)

450 **Publication number and date**

2011/5 Gaz, 24.02.2011

**Statement of grant of protection made under Rule 18ter(1)**

AT (Austria)

450 **Publication number and date**

2011/8 Gaz, 17.03.2011

**Statement of grant of protection made under Rule 18ter(1)**

ES (Spain)

450 **Publication number and date**

2011/8 Gaz, 17.03.2011

**Ex Officio examination completed but opposition or observations by third parties still possible, under Rule 18bis(1)**

HU (Hungary)

450 **Publication number and date**

2011/8 Gaz, 17.03.2011

**Opposition end date**

23.09.2011

**Statement of grant of protection made under Rule 18ter(1)**

DE (Germany)

450 **Publication number and date**

2011/8 Gaz, 17.03.2011

861 **Total provisional refusal of protection**

PL (Poland)

450 **Publication number and date**

2011/9 Gaz, 24.03.2011

861 **Total provisional refusal of protection**

UA (Ukraine)

450 **Publication number and date**

2011/22 Gaz, 23.06.2011

861 **Total provisional refusal of protection**

TM (Turkmenistan)

450 **Publication number and date**

2011/27 Gaz, 28.07.2011

**Statement of grant of protection made under Rule 18ter(1)**

HR (Croatia)

450 **Publication number and date**

2011/28 Gaz, 04.08.2011

# EXHIBIT “C”



# Ministero dello Sviluppo Economico Ufficio Italiano Brevetti e Marchi

Domanda numero **MC2007C000638** Tipologia **Marchi**

*N.B. Non tutte le schede riportano la medesima struttura, essendo questa strettamente correlata alla tipologia.*  
Dati aggiornati al **26 luglio 2011** (fonte: [www.uibm.eu](http://www.uibm.eu))

Data Deposito  
**14 dicembre 2007**

N. Registrazione  
**0001239198**

Data Registrazione  
**13 gennaio 2010**



Titolo

-

Descrizione

.

Colore  
**nessuna rivendicazione**

Stato Domanda  
**rilasciata**

Tipo Domanda Presentata  
**rinnovo senza modifiche  
ne cessioni**

Nota dell'ufficiale rogante

-

Titolare  
**FABI SPA | MONTE SAN GIUSTO | (MC) |**

Domicilio elettivo  
**ING. CLAUDIO  
BALDI S.R.L.**

Indirizzo  
**VIALE CAVALLOTTI, 13 - 60035 JESI (AN)**

*BOLLETTINO*

Numero Bollettino

-

Data di Pubblicazione

-

*CLASSE*

Codice

-

Elenco prodotti o servizi

-

*N.B. Le Classi e i Prodotti o Servizi sono riferiti all'edizione della Classificazione di Nizza vigente al momento della presentazione della domanda di primo deposito.*

*PRIORITÀ*

Nazione

-

Numero Domanda

-

Data Domanda

-

*STORIA DEL MARCHIO - COLLEGAMENTO ALLE DOMANDE DI PRIMO DEPOSITO E/O DI RINNOVO*

	Numero Domanda	Data Deposito	N. Registrazione	Data Registrazione
Primo deposito	<b>MI1998C000104</b>	<b>12 gennaio 1998</b>	<b>0000786849</b>	<b>04 agosto 1999</b>

*ANNOTAZIONE*

Annotazione numero: <b>1</b> Tipologia della domanda di annotazione: <b>Fissa</b>				
Numero Domanda	Data Deposito	Stato Domanda	Tipo Domanda Presentata	Causale
<b>AN2010F000040</b>	<b>27 luglio 2010</b>	<b>non assegnata</b>	<b>assunzione e variazione mandato</b>	<b>diassunzione mandato marchi nazionali a nome fabi sp  </b>
Nome e indirizzo Studio				
<b>STUDIO INPAT&amp;LAW   VIA DEI GABBIANI 50 SCALA E INT. 6 - 60018 MONTEMARCIANO (AN)  </b>				
Da				
<b>CLAUDIO BALDI SRL E CERRETA CATERINA PER IL SOLO TM 1269671</b>				
A				
<b>DR. BENEDETTA DOLCI C/O STUDIO INPAT&amp;LAW</b>				
Note				
-				

*TRASCRIZIONE*

**Nel database non sono state trovate trascrizioni per questa domanda**



# DOCUMENT SEPARATOR



## Ministero dello Sviluppo Economico Ufficio Italiano Brevetti e Marchi

Domanda numero **MI1998C000104** Tipologia **Marchi**

*N.B. Non tutte le schede riportano la medesima struttura, essendo questa strettamente correlata alla tipologia.*  
Dati aggiornati al **26 luglio 2011** (fonte: [www.uibm.eu](http://www.uibm.eu))

Data Deposito  
**12 gennaio 1998**

N. Registrazione  
**0000786849**

Data Registrazione  
**04 agosto 1999**



Titolo  
**barracuda calzolai dal 1896 e figura**

Descrizione  
**il marchio consiste nella denominazione barracuda calzolai dal 1896 in un ovale**

Colore	Stato Domanda	Tipo Domanda	Nota dell'ufficiale rogante
-	<b>rilasciata</b>	<b>Presentata primo deposito</b>	-

Titolare  
**BASTIANELLI SRL | MONTE SAN GIUSTO | (MC) |**

Domicilio elettivo  
**ISTITUTO ITALIANO  
MARCHI S.R.L.**

Indirizzo  
**GALLERIA BUENOS AIRES 15 - 20124 MILANO (MI)**

### *BOLLETTINO*

Numero Bollettino	Data di Pubblicazione
-	-

### *CLASSE*

Codice	Elenco prodotti o servizi
<b>25</b>	-

*N.B. Le Classi e i Prodotti o Servizi sono riferiti all'edizione della Classificazione di Nizza vigente al momento della presentazione della domanda di primo deposito.*

### *PRIORITÀ*

Nazione	Numero Domanda	Data Domanda
-	-	-

*STORIA DEL MARCHIO - COLLEGAMENTO ALLE DOMANDE DI PRIMO DEPOSITO E/O DI RINNOVO*

	Numero Domanda	Data Deposito	N. Registrazione	Data Registrazione
Successivo rinnovo	<b>MC2007C000638</b>	<b>14 dicembre 2007</b>	<b>0001239198</b>	<b>13 gennaio 2010</b>

*ANNOTAZIONE*

Annotazione numero: 1 Tipologia della domanda di annotazione: Fissa				
Numero Domanda	Data Deposito	Stato Domanda	Tipo Domanda Presentata	Causale
<b>AN2006F000018</b>	<b>18 maggio 2006</b>	<b>accolta</b>	<b>cambiamento di sede</b>	<b>fabi s.p.a.</b>
Nome e indirizzo Studio				
<b>ING. CLAUDIO BALDI S.R.L.   VIALE CAVALLOTTI, 13 - 60035 JESI (AN)  </b>				
Da				
<b>VIA G. ROSSA 49 MONTE SAN GIUSTO (MC)</b>				
A				
<b>VIA BORE CHIENZI SNC MONTE SAN GIUSTO (MC)</b>				
Note				
<b>vengono stralciate dalla lista dei riferimenti dell'annotazione le domande di marchio mc2005c558, mc2005c67 e mc2005c559 in quanto non ancora rilasciate. la variazione verra' operata al rilascio.</b>				

*TRASCRIZIONE*

Trascrizione Numero: 1				
Numero Domanda	Data Deposito	Stato Domanda	Tipo di atto	Tipo di trascrizione
<b>AN2005E000020</b>	<b>25 luglio 2005</b>	<b>accolta</b>	<b>Verbale di aggiudicazione giudiziale</b>	<b>aggiudicazione giudiziale</b>
Atto	Data	Codice	Provincia	
-	Registrazione	-	MC	
-				
Nome e indirizzo Studio				
<b>ING. CLAUDIO BALDI S.R.L.   VIALE CAVALLOTTI, 13 - 60035 JESI (AN)  </b>				
Cedenti				
<b>BASTIANELLI SRL   VIA NINO BIXIO 69   60015   FALCONARA MARITTIMA   (AN)  </b>				
Cesionario				
<b>FABI SPA   VIA G. ROSSA 49   62015   MONTE SAN GIUSTO   (MC)  </b>				
Note				
<b>recuperata per correzione dati marchi</b>				

# EXHIBIT “D”

**Int. Cl.: 25**

**Prior U.S. Cls.: 22 and 39**

**United States Patent and Trademark Office**

**Reg. No. 3,422,644**

**Registered May 6, 2008**

**TRADEMARK  
PRINCIPAL REGISTER**

**de la barracuda**

DE LA BARRACUDA (CALIFORNIA CORPORATION)  
7600 MELROSE AVE. #B  
LOS ANGELES, CA 90046

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: BASEBALL CAPS; CAPS; CARGO PANTS; FLIP FLOPS; FOOTWEAR FOR MEN AND WOMEN; GOLF CAPS; HATS; PANTS; POLO SHIRTS; SHORT-SLEEVED OR LONG-SLEEVED T-SHIRTS; SPORT SHIRTS; SWEAT PANTS; SWEAT SHIRTS; T-SHIRTS; WOOLLY HATS, IN CLASS 25 (U.S. CLS. 22 AND 39).

THE ENGLISH TRANSLATION OF "DE LA" IS "FROM THE."

SER. NO. 77-273,196, FILED 9-6-2007.

FIRST USE 4-1-2007; IN COMMERCE 4-1-2007.

ALLISON SCHRODY, EXAMINING ATTORNEY

# EXHIBIT “E”

# Trademark/Service Mark Application, Principal Register

Serial Number: 77273196

Filing Date: 09/06/2007

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77273196
MARK INFORMATION	
*MARK	<u>de la barracuda</u>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	de la barracuda
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	de la barracuda
*STREET	7600 Melrose ave. #b
*CITY	Los angeles
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	90046
PHONE	661-253-4494
FAX	661-253-4394
EMAIL ADDRESS	gbryceus@yahoo.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
LEGAL ENTITY INFORMATION	
TYPE	corporation

<b>STATE/COUNTRY OF INCORPORATION</b>	California
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
<b>INTERNATIONAL CLASS</b>	025
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 04/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 04/01/2007
<b>*IDENTIFICATION</b>	Baseball caps
<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 04/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 04/01/2007
<b>SPECIMEN FILE NAME(S)</b>	<u>\\TICRS2\EXPORT13\772\731 \77273196\xml1\APP0003.JP G</u>
<b>SPECIMEN DESCRIPTION</b>	digitally photographed tags
<b>*IDENTIFICATION</b>	Caps
<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 04/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 04/01/2007
<b>SPECIMEN FILE NAME(S)</b>	<u>\\TICRS2\EXPORT13\772\731 \77273196\xml1\APP0003.JP G</u>
<b>SPECIMEN DESCRIPTION</b>	digitally photographed tags
<b>*IDENTIFICATION</b>	Cargo pants
<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 04/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 04/01/2007
<b>SPECIMEN FILE NAME(S)</b>	<u>\\TICRS2\EXPORT13\772\731 \77273196\xml1\APP0003.JP G</u>
<b>SPECIMEN DESCRIPTION</b>	digitally photographed tags
<b>*IDENTIFICATION</b>	Flip flops
<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 04/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 04/01/2007
<b>SPECIMEN</b>	<u>\\TICRS2\EXPORT13\772\731</u>



<b>FILE NAME(S)</b>	<u>\\77273196\xml1\APP0003.JP G</u>
<b>SPECIMEN DESCRIPTION</b>	digitally photographed tags
<b>*IDENTIFICATION</b>	Footwear for men and women
<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 04/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 04/01/2007
<b>SPECIMEN FILE NAME(S)</b>	<u>\\TICRS2\EXPORT13\772\731 \\77273196\xml1\APP0003.JP G</u>
<b>SPECIMEN DESCRIPTION</b>	digitally photographed tags
<b>*IDENTIFICATION</b>	Golf caps
<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 04/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 04/01/2007
<b>SPECIMEN FILE NAME(S)</b>	<u>\\TICRS2\EXPORT13\772\731 \\77273196\xml1\APP0003.JP G</u>
<b>SPECIMEN DESCRIPTION</b>	digitally photographed tags
<b>*IDENTIFICATION</b>	Hats
<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 04/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 04/01/2007
<b>SPECIMEN FILE NAME(S)</b>	<u>\\TICRS2\EXPORT13\772\731 \\77273196\xml1\APP0003.JP G</u>
<b>SPECIMEN DESCRIPTION</b>	digitally photographed tags
<b>*IDENTIFICATION</b>	Pants
<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 04/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 04/01/2007
<b>SPECIMEN FILE NAME(S)</b>	<u>\\TICRS2\EXPORT13\772\731 \\77273196\xml1\APP0003.JP G</u>
<b>SPECIMEN DESCRIPTION</b>	digitally photographed tags
<b>*IDENTIFICATION</b>	Polo shirts
<b>FILING BASIS</b>	SECTION 1(a)

<b>FIRST USE ANYWHERE DATE</b>	At least as early as 04/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 04/01/2007
<b>SPECIMEN FILE NAME(S)</b>	<u>\\TICRS2\EXPORT13\772\731 \77273196\xml1\APP0003.JP G</u>
<b>SPECIMEN DESCRIPTION</b>	digitally photographed tags
<b>*IDENTIFICATION</b>	Short-sleeved or long-sleeved t-shirts
<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 04/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 04/01/2007
<b>SPECIMEN FILE NAME(S)</b>	<u>\\TICRS2\EXPORT13\772\731 \77273196\xml1\APP0003.JP G</u>
<b>SPECIMEN DESCRIPTION</b>	digitally photographed tags
<b>*IDENTIFICATION</b>	Sport shirts
<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 04/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 04/01/2007
<b>SPECIMEN FILE NAME(S)</b>	<u>\\TICRS2\EXPORT13\772\731 \77273196\xml1\APP0003.JP G</u>
<b>SPECIMEN DESCRIPTION</b>	digitally photographed tags
<b>*IDENTIFICATION</b>	Sweat pants
<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 04/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 04/01/2007
<b>SPECIMEN FILE NAME(S)</b>	<u>\\TICRS2\EXPORT13\772\731 \77273196\xml1\APP0003.JP G</u>
<b>SPECIMEN DESCRIPTION</b>	digitally photographed tags
<b>*IDENTIFICATION</b>	Sweat shirts
<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 04/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 04/01/2007
<b>SPECIMEN FILE NAME(S)</b>	<u>\\TICRS2\EXPORT13\772\731 \77273196\xml1\APP0003.JP G</u>

<b>SPECIMEN DESCRIPTION</b>	digitally photographed tags
<b>*IDENTIFICATION</b>	T-shirts
<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 04/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 04/01/2007
<b>SPECIMEN FILE NAME(S)</b>	<u>\\TICRS2\EXPORT13\772\731 \77273196\xml1\APP0003.JP G</u>
<b>SPECIMEN DESCRIPTION</b>	digitally photographed tags
<b>*IDENTIFICATION</b>	Woolly hats
<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 04/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 04/01/2007
<b>SPECIMEN FILE NAME(S)</b>	<u>\\TICRS2\EXPORT13\772\731 \77273196\xml1\APP0003.JP G</u>
<b>SPECIMEN DESCRIPTION</b>	digitally photographed tags
<b>CORRESPONDENCE INFORMATION</b>	
<b>NAME</b>	de la barracuda
<b>FIRM NAME</b>	de la barracuda
<b>STREET</b>	7600 Melrose ave. #b
<b>CITY</b>	Los angeles
<b>STATE</b>	California
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	90046
<b>PHONE</b>	661-253-4494
<b>FAX</b>	661-253-4394
<b>EMAIL ADDRESS</b>	gbryceus@yahoo.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	325
<b>*TOTAL FEE DUE</b>	325

<b>*TOTAL FEE PAID</b>	325
<b>SIGNATURE INFORMATION</b>	
<b>SIGNATURE</b>	/gavin bryce/
<b>SIGNATORY'S NAME</b>	gavin bryce
<b>SIGNATORY'S POSITION</b>	owner
<b>DATE SIGNED</b>	09/06/2007

---

## **Trademark/Service Mark Application, Principal Register**

**Serial Number: 77273196**

**Filing Date: 09/06/2007**

### **To the Commissioner for Trademarks:**

**MARK:** de la barracuda (Standard Characters, see mark)

The literal element of the mark consists of de la barracuda.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, de la barracuda, a corporation of California, having an address of

7600 Melrose ave. #b

Los angeles, California 90046

United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

### **For specific filing basis information for each item, you must view the display within the Input Table.**

International Class 025: Baseball caps; Caps; Cargo pants; Flip flops; Footwear for men and women; Golf caps; Hats; Pants; Polo shirts; Short-sleeved or long-sleeved t-shirts; Sport shirts; Sweat pants; Sweat shirts; T-shirts; Woolly hats

Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, or the applicant's predecessor in interest used the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

In International Class 025, the mark was first used at least as early as 04/01/2007, and first used in commerce at least as early as 04/01/2007, and is now in use in such commerce. The applicant is submitting one specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) digitally photographed tags.

Specimen File1

Correspondence Information: de la barracuda

7600 Melrose ave. #b

Los angeles, California 90046

661-253-4494(phone)

661-253-4394(fax)

gbryceus@yahoo.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

### **Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /gavin bryce/ Date Signed: 09/06/2007

Signatory's Name: gavin bryce

Signatory's Position: owner

RAM Sale Number: 681

RAM Accounting Date: 09/07/2007

Serial Number: 77273196

Internet Transmission Date: Thu Sep 06 15:33:44 EDT 2007

TEAS Stamp: USPTO/BAS-71.154.149.74-2007090615334479

2166-77273196-380d4545157d6ce684273ebdf4

921cb5472-CC-681-20070906145010562868

de la barracuda





# EXHIBIT “F”



# EXHIBIT “G”



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: 1

[Aoki](#)

[Barracuda Bolt](#)

[Barracuda Bolt Tank](#)

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[Black Palm Circle](#)

[Black Palm Circle Tank](#)

[Burnout Tank Palm\(Teal\)](#)

[Circle Palm White](#)

[Classic DLB logo Tank](#)

[Classic L.A. Palm Red](#)

[De La Barracuda Naranja](#)

[Diddy Dirty Money](#)

[DLB Baseball Jacket Black](#)

[DLB Baseball Jacket Black/Grey](#)

[DLB Baseball Jacket Red](#)

[DLB Black Trucker Cap](#)

[DLB Palm Logo Cap Black](#)

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[DLB V Neck Serpent/Carcoal](#)

[DLB Vintage Crew L.A. Palm](#)

[DLB Vintage Hoody Melrose](#)

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[Razorback Tank Yellow\( Circle Logo\)](#)

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[Zip Hoody Charcoal Black](#)

[Zip Hoody Lt. Grey](#)

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Yellow\( Circle  
Logo\)](#)

\$28.00    ☆☆☆☆☆

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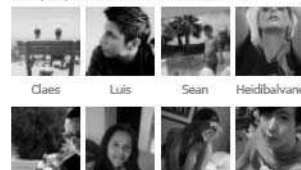
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# EXHIBIT “I”

## 3:33 SHOES IN STORE NOW!!!!!!!

May 30, 2008 - 10:28 pm by **barracuda**

COME TO BARRACUDA TO GET THE LONG AWAITED "3:33'S"



**BARRACUDA**  
ONLINE SHOP





- o June 2011
- o May 2011
- o April 2011
- o March 2011
- o February 2011
- o January 2011
- o December 2010
- o November 2010
- o October 2010
- o September 2010
- o August 2010
- o July 2010
- o June 2010
- o May 2010
- o April 2010
- o March 2010
- o February 2010
- o January 2010
- o December 2009
- o November 2009
- o October 2009
- o September 2009
- o August 2009
- o July 2009
- o June 2009
- o May 2009
- o April 2009
- o March 2009
- o February 2009
- o January 2009
- o December 2008
- o November 2008



- October 2008
- September 2008
- August 2008
- July 2008
- June 2008
- May 2008
- April 2008
- March 2008
- February 2008
- January 2008
- December 2007

7769  
Melrose Ave  
Los  
Angeles,  
CA 90046  
323.852.7179  
©  
2011  
De  
La Barracuda.

**ecöteka™**



Comments

No comments yet

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NAME \*

EMAIL (Will not be published) \*

WEBSITE

COMMENTS



# EXHIBIT “J”

**Int. Cl.: 25**

**Prior U.S. Cls.: 22 and 39**

**United States Patent and Trademark Office**

**Reg. No. 3,493,411**

**Registered Aug. 26, 2008**

**TRADEMARK  
PRINCIPAL REGISTER**



3:33, INC. (CALIFORNIA CORPORATION)  
P.O. BOX 6608  
LAGUNA NIGUEL, CA 92607

FIRST USE 1-21-2008; IN COMMERCE 1-21-2008.

SN 77-157,528, FILED 4-16-2007.

FOR: SHOES, IN CLASS 25 (U.S. CLS. 22 AND 39). AISHA SALEM, EXAMINING ATTORNEY

# EXHIBIT “K”



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Registration No. 3,422,644  
For the mark: de la barracuda

FABI S.P.A.,

Petitioner,

v.

DE LA BARRACUDA INC.,

Registrant.

Cancellation No.

DECLARATION OF LUCY LIOU

I, Lucy Liou, declare:

1. I am over the age of 18. I am a citizen of the United States and a resident of the state of California. I have personal knowledge of the facts set forth below and if called as a witness, I could and would competently testify thereto.

2. I am the General Manager of Kotoni Trading, Inc., a U.S. based corporation, which provides management services for C. II Concepts, LLC, a distributor of Fabi S.P.A.'s ("Fabi") products. Fabi is the owner of the "Barracuda Calzolari Dal 1896" U.S. trademark application no. 79086366. Hereinafter, the "Fabi's Trademark Application."

3. The U.S. Patent and Trademark Office's web site reveals that De La Barracuda Inc. ("DLB") is the owner of the "de la barracuda" U.S. registered trademark, bearing registration no. 3,422,644. Hereinafter, the "DLB Trademark."

4. On June 20, 2011, I visited DLB's retail store located at 7769 Melrose Avenue, Los Angeles, California.

5. While at the DLB store, I met a Mr. Gavin Bryce and a Mr. Miguel Garcia. I had conversations with them. From my conversations with Mr. Bryce and Mr. Garcia, I came to learn that they were/are the owners of DLB.

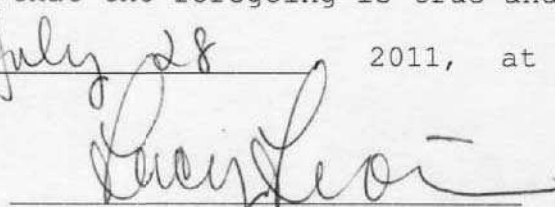
6. During my conversation with Mr. Bryce and Mr. Garcia, they informed me that all of the DLB products sold in the DLB store are their own designs, and carry the "de la barracuda" trademark.

7. I inquired about whether DLB market and/or sell shoes or footwear having the DLB trademark. Mr. Bryce and Mr. Garcia replied that DLB has not marketed, sold or manufactured shoes or footwear using the "de la barracuda" trademark.

8. While at the DLB store, I did not see any shoes or footwear products for sale. This observation confirms Mr. Bryce and Mr. Garcia's statement to me.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 28 2011, at Pasadena, California.

  
\_\_\_\_\_  
Lucy Liou

# EXHIBIT “L”

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Registration No. 3,422,644  
For the mark: de la barracuda

FABI S.P.A.,

Petitioner,

v.

DE LA BARRACUDA INC.,

Registrant.

Cancellation No.

DECLARATION OF PHILIP LIN

I, Philip Lin, declare:

1. I am over the age of 18. I am a citizen of the United States and a resident of California. I have personal knowledge of the facts set forth below and if called as a witness, I could and would competently testify thereto.

2. I am the Vice President of Product Development & Merchandising for C. II Concepts, LLC, a U.S. based distributor of Fabi S.P.A.'s ("Fabi") products. Fabi is the owner of the "Barracuda Calzolari Dal 1896" U.S. trademark application no. 79086366. Hereinafter, the "Fabi's Trademark Application."

2. The U.S. Patent and Trademark Office's web site reveals that De La Barracuda Inc. ("DLB") is the owner of the "de la barracuda" U.S. registered trademark, bearing registration no. 3,422,644. Hereinafter, the "DLB Trademark."

3. On June 20, 2011, I accompanied Ms. Lucy Liou to DLB's retail store located at 7769 Melrose Avenue, Los Angeles, California.

4. While at the DLB store, Ms. Lucy Liou and I met a Mr. Gavin Bryce and a Mr. Miguel Garcia. We had conversations with them. From the conversations with Mr. Bryce and Mr. Garcia, I came to learn that they were/are the owners of DLB.

5. During the conversations with Mr. Bryce and Mr. Garcia, they informed us that all of the DLB products sold in the DLB store are their own designs, and carry the "de la barracuda" trademark.

6. Ms. Liou inquired about whether DLB market and/or sell shoes or footwear having the "de la barracuda" trademark. I heard Mr. Bryce and Mr. Garcia replied that DLB has not marketed, sold or manufactured shoes or footwear using the "de la barracuda" trademark.

7. While at the DLB store, I did not see any shoes or footwear products for sale. This observation is consistent with Mr. Bryce and Mr. Garcia's statement.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 7/29, 2011, at TORRANCE, California.

  
Philip Lin